

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: JANUARY 9, 2008**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-25257 - APPLICANT/OWNER: STEVE AND JANINE AYRES**

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**\*\* CONDITIONS \*\***

Staff recommends DENIAL. The Planning Commission (6-0 vote) recommends APPROVAL, subject to:

**Planning and Development**

1. Conformance to the conditions for Rezoning (Z-0018-91) and Site Development Plan Review (SDR-25256) if approved.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This application is a request for a Variance of Title 19.08.040 to allow a five-foot rear yard setback where eight feet is required for an existing Class II Non-Habitable Accessory Structure on 0.17 acres at 804 South Jones Boulevard. In addition to this request, a Site Development Plan Review (SDR-25256) for a proposed conversion of a 1,498 square-foot Single Family Residence to an Office will be heard with this item.

No physical constraints exist on the subject site that precludes the project from adhering to Title 19.08 Residential Development Standards. Encroachment of the existing Class II Non-Habitable Accessory Structure into the rear yard setback is considered excessive; therefore, staff recommends denial.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
04/03/91	The City Council approved a Rezoning (Z-0018-91) to P-R (Professional Office and Parking) as one of 17 parcels along Jones Boulevard. A Condition of Approval required each parcel to receive approval of a Plot Plan and Building Elevation Review prior to development. The Planning Commission recommended denial on March 14, 1991.
12/06/07	The Planning Commission recommended approval of companion item SDR-25256 concurrently with this application.  The Planning Commission voted 6-0 to recommend APPROVAL (PC Agenda Item #29/jm).
<b><i>Related Building Permits/Business Licenses</i></b>	
10/09/92	A contractor's license (#C11-04557) was issued for the site. It is currently out of business.
02/06/07	A Certificate of Occupancy was issued at 716 S. Jones, which extends the Resolution of Intent to P-R (Professional Office and Parking) for one-year for the remaining 17 parcels.

<b><i>Pre-Application Meeting</i></b>	
08/15/07	A pre-application meeting was held with the applicant. The applicant informed staff they had recently purchased the property assuming it was entitled for commercial use. Although the site was rezoned to P-R (Professional Office and Parking), the applicant was informed that no building permits were issued; therefore it was considered a single-family residential structure. The applicant was informed that a conversion to an office use would require a Site Development Plan Review application. The applicant was informed that the site had access concerns as the drive aisle that led to the proposed parking stalls in the rear was 10.5 feet where 12 feet is required. The applicant has attempted to attain a cross access agreement with the owner of the property to the north, but the owner has refused. Public Works has added a condition to resolve this issue. In addition, the property has a fixed accessory structure (shed) in the rear of the site that does not meet setback standards, which requires a Variance application. The applicant was then informed of the submittal requirements in detail.
<b><i>Field Check</i></b>	
11/01/01	A field check was made on site. The existing building is metal with a metal accessory structure at the rear of the site. The metal building and asphalt covered site convey a commercial appeal not a single family residence.

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Net Acres	0.17

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Single Family Residential	O (Office)	R-1 (Single Family Residential) Zone under Resolution of Intent to P-R (Professional Office and Parking)
North	Undeveloped	O (Office)	R-1 (Single Family Residential) Zone under Resolution of Intent to P-R (Professional Office and Parking)
South	Adult Day Care	O (Office)	O (Office)
East	Single Family Residential	M (Medium Density Residential)	R-1 (Low Density Residential)
West	Single Family Residential	L (Low Density Residential)	R-1 (Low Density Residential)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Area Plan</b>		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Purpose and Overlay Districts</b>			
A-O Airport Overlay District (200 Feet)	X		Y
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

## DEVELOPMENT STANDARDS

*Pursuant to Title 19.08, the following development standards apply:*

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Width	60 Feet	63 Feet	Y
Min. Setbacks (Accessory)			
• Front	20 Feet	>20 Feet	Y
• Side	5 Feet	6.5 Feet	Y
• Corner	15 Feet	N/A	N/A
• Rear (Building)	8 Feet	5 Feet	N*
Min. Distance Between Buildings	10 Feet	17 Feet	Y
Max. Lot Coverage	50%	24%	Y
Max. Building Height	2 stories, 35 Feet		Y
Trash Enclosure	Screened	Curbside Pickup	Y
Mech. Equipment	N/A	N/A	Y

## ANALYSIS

- Zoning**

The existing zoning classification for this site is R-1 (Single Family Residential), under a Resolution of Intent to P-R (Professional Office and Parking). The property was rezoned in 1991 along with other R-1 properties along the east side of Jones Boulevard south of Alta Drive.

The P-R (Professional Office and Parking) District is designed to be a transitional zone allowing low intensity administrative and professional offices. This area conforms to the existing O (Office) General Plan designation.

- **Site Plan**

The site plan depicts an existing one-story 1,484 square foot single family residential structure. The existing 345 square-foot Class II Accessory Structure is located at the rear of the site behind the primary dwelling and encroaches three feet into the required rear yard setback. Title 19.08 standards require a Class II Accessory Structure within the P-R (Professional Office and Parking) zone to provide an eight foot rear yard setback.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing a Class II Accessory Structure that encroaches into the required rear yard setback. An alternative design that reduces the square footage and observes the required setback would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 17

**ASSEMBLY DISTRICT** 3

**SENATE DISTRICT** 11

**NOTICES MAILED** 302 by City Clerk

**APPROVALS** 11

**PROTESTS** 1